

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 519 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MANSIH @ PINTU GANGADHAR VARMA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 519 of 2004
MR ZUBIN F BHARDA for Petitioner No. 1
RULE SERVED for Respondent No. 1,2
MR AY KOGJE, AGP for Respondent No. 2-3
-

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 21/06/2004

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu
has challenged his detention order dated 15-12-2003. By

the said order, the petitioner is detained as a "bootlegger" under P.A.S.A. In the grounds of detention, there is a reference of three criminal cases pending against the petitioner. All these cases are under Bombay Prohibition Act. The detaining authority has also relied upon the statement of two witnesses.

2) Mr.Bharda, learned advocate for the petitioner submitted that the last case registered against the petitioner is dated 14/10/2003 and the detention order is passed after two months. He submitted that there is a delay in passing the detention order from the date of incident and on the ground of delay, the petitioner is required to be released. Mr.Bharda has relied upon the decision of this Court rendered in Special Civil Application No.9915 of 2002.

3) Mr.Bharda has also argued that certain documents given to the petitioner are not legible and therefore, the petitioner is denied the right of making effective representation. Such illegible documents are finding place at page 37, 75 and 79. So far as document at page No.37 is concerned, it seems to be an application for bail given by the petitioner. Perusing the said document, it cannot be said that the document at page No.37 is not legible. So far as document at page No.79 is concerned, the same is a F.S.L. report and opinion given below the report is not legible and few lines are absolutely faint. Mr.Bharda submitted that even though the petitioner has made a representation on 1st January, 2004, asking to supply him better copy, the same is not supplied to him, however, the authority took the stand that the documents are legible.

4) Mr.Kogje, learned AGP, after perusing the said document, has submitted that part of the opinion given by the F.S.L. is not legible at all. Under these circumstances, without considering the submission about delay in passing the detention order, the petitioner is required to be released on the ground of illegible documents supplied to him, which documents form part of the detention order and on which the detaining authority has relied upon at the time of passing the order. Under these circumstances, this petition is required to be allowed.

5) Accordingly, this petition is allowed. The order of detention dated 15-12-2003 is quashed and set aside. The detenu, Manish @ Pintu Gangadhar Varma is ordered to be set at liberty forthwith, if he is not required in

connection with any other case. Rule is made absolute.
Direct service is permitted.

(P.B.Majmudar, J.)

/malek